particular IXC, but it is shared by all the local customers in that end office switch, each of whom can send and receive calls to that IXC. Ameritech's proposal, in comparison, would require each LEC resident in that switch to make separate transport arrangements with every IXC in order to permit its end users to receive calls from that IXC's end users. The absurdity of this result is obvious, as is its effectiveness as a barrier to competition.

In sum, the purchaser of unbundled local switching should remain the sole provider of exchange access over that facility, and the IXC's choice of transport provider should remain independent of the end user's choice of local exchange carrier. The Commission should reject Ameritech's proposal to deny ULS purchasers the ability to serve as the access provider. Until this is rectified, Ameritech's ULS offering will violate the Act and the FCC's rules and therefore cannot meet the checklist.

b. Ameritech's Refusal to Provide Nondiscriminatory Access to its Interoffice Network Violates the Act.

Requesting carriers have the statutory right to purchase ILEC network elements in any configuration or combination, in a manner that is as efficient as the way the ILEC itself uses those network elements, and on the same cost basis as the ILEC. Ameritech has sought to defeat this right by denying requesting carriers the right to purchase, as an unbundled network element, the use of the common interoffice transmission network in the same manner that Ameritech uses that network -- often referred to as "common transport." 47/ Ameritech would accomplish this by denying

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47/ The FCC required ILECs to provide both dedicated and "shared transport." 47 C.F.R. § 319(d)(1). WorldCom believes the FCC meant by "shared transport" the requesting carriers the ability to employ the existing routing instructions resident in each end office switch to route traffic over the common transport network that Ameritech uses for transport of its own traffic.

Ameritech's refusal to allow this use of the unbundled switching element and its interoffice network means that Ameritech has failed to meet four checklist items: nondiscriminatory access to unbundled elements, access to unbundled interoffice transport, access to unbundled local switching, and reciprocal compensation. As we discuss in the following section, moreover, nothing in Ameritech's interim plan, or in its offer to test common transport, alleviates this failure to satisfy the checklist.

Ameritech's "legal" position is nothing more than a ruse to make the combination of network elements impossible to use as a practical matter. In effect, Ameritech has attempted to carve the interoffice network out of the Act, pretending that this part of its network does not need to be made available to competitors on a nondiscriminatory basis at cost-based rates. Every other RBOC includes common transport as a network element.

Ameritech's denial of access to its common interoffice network violates the Act and the FCC's rules in a number of ways. First, the Act defines "network element" broadly to include not just the network "facility or equipment" but also the "features,

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shared use of the common interoffice network, as opposed to use of dedicated interoffice trunks. We use the term "common transport" here to describe this shared transport, in order to distinguish it from what Ameritech labels as "shared transport." As discussed above, Ameritech's "shared transport" is simply dedicated transport that two or more non-Ameritech carriers elect to share among themselves.

functions, and capabilities that are provided by means of such facility or equipment." 48/ Ameritech ignores this broader part of the definition, and pretends that its only obligation is to provide access to discrete physical parts of the network. The shared nature of a network facility or equipment is no basis for excluding it from the definition of "network elements" that ILECs must make available under Section 251(c)(3). Many unbundled elements involve sharing of a common network resource -- such as databases and signaling networks. The switching element itself, which includes all capabilities of the switch, including vertical services, involves sharing of the switching matrix and the vertical capabilities of the switch. The interoffice network is no different. Ameritech itself acknowledges the benefits of sharing interoffice transport facilities among carriers, when it created its "shared/dedicated" and "shared company transport" offerings, both of which contemplate that several carriers may share the same facilities. Ameritech just does not want to have to share itself. 49/

48/ 47 U.S.C. § 153(29).

49/ Ameritech refuses to make this shared transport option available to others. Rather, Ameritech is only willing to offer dedicated unbundled transport. Ameritech interprets the FCC's "shared transport" requirement to mean only that Ameritech is required to permit a carrier purchasing dedicated transport to "share" that facility with another carrier. But presumably such sharing of unbundled elements is automatically permissible under the Act, since ILECs are not allowed to restrict the use to which carriers put unbundled elements. The FCC must have meant something more when it required "shared" as well as "dedicated" transport to be provided as an unbundled network element. See 47 C.F.R. § 51.319(d)(1).

The local exchange network is by definition a network that carries all kinds of traffic from all kinds of customers and carriers. Kocher makes this clear in his affidavit for Ameritech:

> Generally, Ameritech's public switched network does not identify or segregate traffic or services by individual carriers or customers. Rather, all categories of traffic -- local, intraLATA toll and interLATA --- arrive on Ameritech's public switched network in random order, are carried on a "first come, first served" basis on trunks and loops intermingled with traffic from many carriers, and are switched by local and tandem switched pursuant to standard software and routing tables. 50/

Kocher then goes on to conclude from these observations about the Ameritech network that

> Under such circumstances, the prospect of conducting a program of concerted discrimination that is effective and remains undetected is wholly implausible. 51/

Of course, if this latter statement is true, then Ameritech's complete *denial* of access to this common network is by definition discriminatory and therefore on its face violates Section 251(c)(3) and its prohibition on discrimination in access to network. elements.

Sharing in the efficiencies of the incumbent LEC network is at the heart of the Act's network element unbundling requirement. As the FCC observed in the Local Competition Order,

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50/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 4-5.

51/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 5.

> The ability of new entrants to purchase the interoffice facilities we have identified will increase the speed with which competitors enter the market. By unbundling various dedicated and shared interoffice facilities, a new entrant can purchase all interoffice facilities on an unbundled basis as part of a competing local network, or it can combine its own interoffice facilities with those of the incumbent LEC. The opportunity to purchase unbundled interoffice facilities will decrease the cost of entry compared to the much higher cost that would be incurred by an entrant that had to construct all of its own facilities. An efficient new entrant might not be able to compete if it were required to build interoffice facilities where it would be more efficient to use the incumbent LEC's facilities. 52/

This analysis shows that under the Act, competitors must be able to take advantage of the efficiencies of Ameritech's interoffice transport network, rather than being forced to purchase dedicated transport and construct a virtual duplicate interoffice network. 53/ Ameritech's approach also could unnecessarily and prematurely exhaust the capacity of Ameritech's end offices to perform customized routing.

Second, Ameritech's approach deprives requesting carriers of the ability to use the Ameritech network as it currently is configured -- with the existing routing algorithms in the switch acting to route traffic over the existing interoffice transmission network. Purchasers of unbundled local switching are entitled to employ

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52/ Local Competition Order at ¶ 441.

53/ WorldCom has filed a petition for clarification with the FCC to ensure that the FCC's shared transport requirement includes transport between end offices as well as transport between end offices that is routed through the tandem. CompTel and others have supported the WorldCom petition. Even if the FCC's order is unclear on this point, however, its rules, the logic of the Local Competition Order, and the Act's unbundling requirements all dictate that Section 251(c)(3) of the Act requires the unbundling of common as well as dedicated transport.

these routing instructions as part of the purchase of all the capabilities of the switch. 54/

Third, Ameritech's proposal violates the Act's requirement that access to network elements be "nondiscriminatory" and the FCC rule requiring access to unbundled elements that is "equal-in-quality" to that provided to the incumbent LEC itself. 55/ Ameritech clearly provides itself the use of its interoffice transport network to its own local end users and to interexchange carriers serving those end users. It must make that interoffice network equally available to all end users housed in that switch, whether they are Ameritech's own local customers or are served via unbundled switching. 56/

Fourth, Ameritech's approach separates network elements that Ameritech currently combines, in plain violation of the FCC's rule that prohibits such separation

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54/ Ameritech itself recognizes that the interoffice network is shared by all types of traffic, carriers, and users. Kocher states that "all categories of traffic -- local, intraLATA toll and interLATA -- arrive on Ameritech's public switched network in random order, are carried on a 'first come, first served' basis on trunks and loops intermingled with traffic from many carriers, and are switched by local and tandem switches *pursuant to standard software and routing tables*." Affidavit of Daniel J. Kocher, Ameritech Application, Volume 2.5, at 5 (emphasis added).

55/ 47 U.S.C. § 251(c)(3); Local Competition Order at para. 312; 47 C.F.R. §§ 51.311(b).

56/ In the Local Competition Order, the Commission required incumbent LECs to provide nondiscriminatory access to "shared transport" as a mandated unbundled network element. Id. at ¶¶ 440-443. The Commission also gave specific meaning to the term "nondiscriminatory," specifying that "where technically feasible the access and unbundled network element provided by an incumbent LEC must be at least *equal-in-quality* to that which the incumbent LEC provides to itself." Id. at para. 312.

except upon request. 57/ It is up to the requesting carrier, *not Ameritech*, to decide whether and where to employ customized routing and dedicated circuits (its own or circuits obtained on an unbundled element basis from Ameritech) to transport its traffic between end offices.

Finally, purchasers of unbundled local switching are entitled to reciprocal compensation -- and thus cost-based transport and termination -- under a different section of the Act, one that applies to *any* local exchange carrier: Section 251(b)(5). 58/ As part of the reciprocal compensation process, a purchaser of unbundled local switching -- as a local exchange carrier -- is entitled to obtain "transport and termination" from the incumbent LEC. 59/ As the FCC made clear on reconsideration of the Local Competition Order, "a carrier that purchases the unbundled local switching element to serve an end user effectively obtains the *exclusive right* to provide all features, functions, and capabilities of the switch, *including switching for exchange access and local exchange service*, for that end user." 60/ The ULS purchaser is also

57/ 47 C.F.R. § 51.315(b) ("Except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines.")

58/ Section 251(b)(5) imposes on *every* local exchange carrier "the duty to establish *reciprocal compensation* arrangements for the *transport and termination* of telecommunications." (emphasis added).

59/ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Order on Reconsideration, CC Docket No. 96-98, FCC 96-324, at ¶ 11 (released Sept. 27, 1996) ("First Reconsideration Order").

60/ First Reconsideration Order in CC Docket No. 96-98 at para. 11 (emphasis added).

obligated, under Section 251(b)(5), to permit other carriers to reach its local exchange customers. Transport and termination, in turn, must be priced at incremental cost pursuant to Section 252(d)(2) of the Act.

Ameritech suggests that because it is capable of providing a *service* over the common transport network, that network somehow is unavailable to competitors under the *network element* provision of Section 251(c)(3). 61/ But it is axiomatic that any network element is capable of supporting retail services. For example, the FCC flatly rejected arguments that the vertical features of a switch were not part of the unbundled switching element because those feature supported particular retail services (such as Caller ID). 62/ The FCC also rejected definitions of unbundled switching that would only provide purchasers with a "point of access" to retail services. 63/ Ameritech's argument on common transport is no different, and must be rejected for the same reason.

The purpose of Section 251(c)(3) is to enable local exchange competition quickly to proceed while carriers construct new local exchange facilities as they are economically justified. Congress recognized that it would take time to construct alternate local networks to duplicate the ILEC network, and that in order to successfully compete, new entrants would need to be able to employ existing ILEC

61/ See, e.g., Kocher Affidavit at 34.

62/ 47 C.F.R. § 51.319(c)(2); Local Competition Order, 11 FCC Rcd 15499, at para. 413.

63/ Local Competition Order at para. 422.

networks in the meantime, taking advantage of the economies of scale that already exist in those networks. 64/

The consequences to competition and consumer choice of accepting Ameritech's argument on common transport would be serious. Denial of nondiscriminatory, cost-based access to Ameritech's interoffice network would:

- Require entrants to engineer a separate, duplicate interoffice network before providing service to a single end user over unbundled local switching.
- Require entrants to order and pay for customized routing within each end office switch
- Create the potential for exhaust of customized routing capability well before the needs of entrants have been satisfied.
- Force ULS purchasers to make separate arrangements with every IXC desiring to terminate traffic to or originate traffic from a ULS end user.
- Create an effective barrier to local entry because only high volumes of traffic could even begin to warrant the use of dedicated interoffice facilities. Entrants are by definition low volume users.
- Make it impossible even to test use of the platform configuration, because even a test would require the engineering of a separate interoffice network.
- Deny to entrants the efficiencies of the existing LEC interoffice network, and thereby artificially and unnecessarily raise the cost of competitive local service provision.
- Leave consumers in areas in which facilities-based competition is uneconomic with no choice of competitive local exchange carrier, other than resellers of LEC retail services. 65/

64/ "The incumbent LECs have economies of density, connectivity, and scale; . . . . the local competition provisions of the Act require that these economies be shared with entrants." Local Competition Order, 11 FCC Rcd at 15508-09, ¶ 11.

The Commission should conclude that Ameritech has failed to meet four items of the competitive checklist because it refuses to offer nondiscriminatory, cost-based access to its interoffice network.

c. Ameritech's Interim True-up Proposal is No Different than its Initial Proposal, and its Platform Test With AT&T Will Not Be Meaningful as Designed.

Ameritech contends that its interim proposals for a platform offering coupled with a "true-up" plan should satisfy the needs of competitors wishing to employ network elements in combination to compete in Michigan. 66/ On close examination, it becomes clear that these proposals are nothing more than the same inadequate, noncompliant offering that Ameritech always has made available, and in which no carrier apparently has been interested.

The "Network Platform-UNE" offering requires carriers to employ dedicated transport. 67/ The "Network Combination-Common Transport Service" offering still permits Ameritech to charge wholesale usage rates for common transport and permits Ameritech, not the ULS purchaser, to charge switching-related access

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65/ In response to a staff request, WorldCom addressed in detail the differences between service resale, on the one hand, and the network element platform with common transport, on the other. Letter from Linda L. Oliver, et al., to William F. Caton, May 23, 1997, filed in CC Docket No. 96-98 and CC Docket No. 97-137, at 3-6. This letter is attached to these comments as Exhibit 4. See also Local Competition Order, 11 FCC Rcd at 1566-71, paras. 328-41.

66/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 35, 38-41.

67/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 33.

charges. 68/ The true-up also is meaningless. The current charges are the same unlawful charges Ameritech always has offered. Only if Ameritech ultimately loses its legal arguments -- after all administrative action and appeals have been exhausted -- will Ameritech true-up the earlier charges to reflect what should have been the case all along: cost-based rates for common transport and the ability of the unbundled elements purchaser --- not Ameritech -- to provide access over those unbundled elements. And only after Ameritech has lost all its legal battles will it implement a "long-term solution" to the billing problems. 69/ In the meantime, potential competitors do not have access to a compliant unbundled network element platform option, and Ameritech will have insulated itself from competitive pressure. Its switched access monopoly is protected and full service competitive is prevented. This is obviously no basis on which a Section 271 application could be granted.

Ameritech also has finally agreed to begin testing the platform configuration with AT&T, at the urging of the Justice Department. 70/ The current test, however, does not even purport to address platform-specific issues. It does not involve the provision of unbundled common transport or the testing of the unbundled

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68/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 34. By Ameritech's own admission "this configuration is a combination of unbundled elements and wholesale local usage, toll and access services" --- not a combination of just unbundled elements. Id.

69/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 38, 41.

70/ See Investigation Concerning Illinois Bell Telephone Company's Compliance with Section 271(c) of the Telecommunications Act of 1996, Transcript of Hearings at 2061-62 (May 7, 1997) (Testimony of AT&T Witness Sherry).

switching purchaser's ability to serve as the provider of exchange access and local termination. Rather, it only tests the ability of the Ameritech/AT&T electronic interface to transmit and receive orders for unbundled local switching and to transmit originating daily usage data. 71/ The second phase of the test (the "multi-switch" trial) may address some platform-specific issues, but the details of that test are still under discussion by AT&T and Ameritech. 72/

For purposes of this application, no test results will be available that could begin to answer the implementation issues surrounding the network element platform. For example, Ameritech contends that it lacks the technical capability to distinguish terminating access minutes between Ameritech's own local customers and the ULS purchaser's customers. Nothing in the record shows how Ameritech would satisfy the requirement that the ULS purchaser be the provider of exchange access using unbundled local switching. 73/

More fundamentally, Ameritech is only at the testing stage for the network elements platform, and its true-up proposal does not permit purchasers of unbundled elements in combination to function as local exchange competitors. Nothing is currently available to requesting carriers that would satisfy the Act or the FCC's

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71/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 35-36 and Attachment 7.

72/ Kocher Affidavit, Ameritech Application, Volume 2.5, at 36-38.

73/ See First Reconsideration Order in CC Docket No. 96-98 at para. 11; Access Reform Order at para. 337.

rules. Thus, Ameritech remains at the starting line in terms of checklist compliance. It has chosen the strategy of complete resistance to implementation of the platform, and it must bear the consequences of that resistance. The FCC must reject the true-up and testing as wholly irrelevant to Ameritech's current ability to meet the checklist in this fashion. Only when the platform is fully operational, with requesting carriers able to use it on a commercial scale, and consistent with the FCC's definitions of unbundled switching and transport, and with the full ability of purchasing carriers to serve as the access providers, could the FCC determine that Ameritech has met the relevant checklist items. 74/

d. Ameritech Proposes Unreasonable And Unjustified Charges For Local Switching.

In its Statement of Generally Available Terms (SGAT) in Michigan, Ameritech also proposed a "billing development charge" of $33,669.71 *per switch* to be charged to *each purchaser* of unbundled local switching. 75/ This charge is, on its

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74/ We note also that many of the prices for unbundled switching are not even specified in the AT&T/Ameritech agreement, and are instead described as "TBD" (to be decided). All of the unbundled element rates in the agreement, moreover, are expressly conditioned on the outcome of the PSC's unbundled network element pricing investigation, Case No. 11280. Many serious rate level and rate structure issues will need to be addressed in that docket.

75/ See Ameritech Michigan Statement of Generally Available Terms and Conditions, filed April 10, 1996, in Ameritech Michigan's Compliance With the Competitive Checklist in Section 271 of the Telecommunications Act of 1996, Michigan PSC Case No. U-11104 (Unbundled Local Switching Pricing Schedule at PS-5). The Michigan PSC recently rejected the SGAT on the grounds that Ameritech was not free to pursue a Track B application under Section 271(c)(2)(B). Order, Case No. U-11104 (June 5, 1997). Even though the SGAT is not in effect, however, it indicates Ameritech's position regarding the magnitude and propriety of the billing development charge.

face, outrageous. It would create an automatic and insuperable barrier to entry for even the largest carriers. 76/

The question of the lawfulness of this charge may be resolved in further proceedings before the Michigan Public Service Commission. The point for purposes of this Section 271 application, however, is that so long as such pricing issues remain unresolved, the FCC cannot approve Ameritech's application as consistent with Section 251(c)(3), 252(d)(1) or, given the barrier to entry that such a charge would create, conclude that the public interest would be satisfied by entry.

C. Ameritech Has Not Provided Access To Operational Support Systems On A Nondiscriminatory Basis.

In the Local Competition Order, the Commission concluded that an incumbent LEC is required to provide access to operational support systems (OSS) pursuant to its obligation to offer access to unbundled network elements under Section 251(c)(3). 77/ This conclusion was based on the determination that access to OSS functions is necessary for meaningful competition and that failing to provide such access would impair the ability of requesting carriers to provide competitive service. 78/ Because OSS is a required network element under Section 251(c)(3), it is incorporated

76/ The AT&T/Ameritech Agreement leaves this item "TBD" or "to be determined." Agreement, Volume 1.2, Unbundled Local Switching Pricing Schedule.

77/ Local Competition Order at ¶ 516-17.

78/ Id. at ¶ 516.

in the competitive checklist and must be "fully implemented" before a Section 271 application can be granted. 79/

In addition to being an independent unbundled element, the provision of nondiscriminatory access to OSS is an essential prerequisite to the provision of other unbundled network elements in accordance with the Act. For example, if a BOC's systems prevent it from being able to provision an unbundled loop in a timely, reliable manner, the loop element is not satisfied under the checklist. The Department of Justice recognized that nondiscriminatory access to OSS must be a prerequisite to BOC interLATA entry:

> [M]eaningful compliance with the requirement that the BOC make available resale services and access to unbundled elements demands that the BOC put in place efficient processes, both electronic and human, by which a CLEC can obtain and maintain these items in competitively-significant numbers. 80/

The Department also recognized the difficulties inherent in providing this access to the BOC's systems:

> [N]on-discriminatory access will be dependent on the BOC's development and implementation of complex technology that differs in important respects from anything done before, and does not merely involve the provision of simple, well-established services that have been operating for some time. 81/

79/ 47 U.S.C. § 271(c)(2)(B)(ii) & (d)(3)(A)(i).

80/ Evaluation of the United States Department of Justice, Application of SBC Communications Inc. to Provide In-Region InterLATA Services in the State of Oklahoma, CC Docket No. 97-121 (filed May 16, 1997), at 26.

81/ Id. at 45 n.55.

Full OSS implementation is a critical prerequisite to interLATA authority. 82/ To satisfy the requirements of the Act, Ameritech must show not only that its OSS have been tested and are available to competitors, it must demonstrate that these systems are in use and capable of processing service orders from competing carriers on a commercial scale, and in a timely, nondiscriminatory manner. 83/ Otherwise, new entrants will not be able to make service commitments to potential customers and their ability to compete in the local exchange market will be destroyed. When judged under this standard, it is plain that Ameritech is not yet providing OSS in a manner that satisfies the requirements of Section 251(c)(3).

WorldCom's MFS subsidiary in Michigan has experienced extensive difficulties to date in obtaining satisfactory pre-ordering, ordering, provisioning arrangements from Ameritech. These difficulties are described in detail in the attached Schroeder affidavit. First, the process of converting customers from Ameritech service to MFS service using Ameritech unbundled loops (as well as to MFS service using resale of Ameritech service) has been plagued with numerous operational

82/ See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Order on Reconsideration, CC Docket No. 96-98, FCC 96-476 at ¶ 11 & n.32 ("OSS Order").

83/ Ameritech's own efforts to test its ability to enter the interLATA market on a broad scale are evidence that such testing is essential for commercial scale viability. See Letter from Lynne S. Starr, Executive Director, Federal Relations, Ameritech, to Regina Keeney, Chief, Common Carrier Bureau, April 21, 1997. Of course, in Ameritech's case, over a decade of experience with the automated PIC-change process and the existence of at least four competing nationwide interLATA networks makes Ameritech's task much easier than that of its prospective local competitors.

problems. The goal of the conversion process is convert the customer from Ameritech to MFS without unnecessary delay or prolonged service outages. Unfortunately for MFS and its customers, this often is not the case. As described in the Schroeder affidavit:

> MFS has suffered the consequences of a consistent lack of coordination on the part of Ameritech personnel in the provision of unbundled loops and the cutover of Ameritech customers to MFS' service. Numerous cutovers have been plagued with problems before, during or after the conversion. In some cases, the customer has lost confidence in MFS and switched its service back to Ameritech. 84/

These problems started with MFS's first customer conversion and have continued to the present. MFS will often schedule a cutover at a very early hour (*e.g.*, 6:00 a.m.) and will agree to pay the overtime rate for the Ameritech technician so that the customer will not be out of service during business hours. On numerous occasions, the Ameritech technician has missed the scheduled appointment -- by as much as 6 hours -- and the customer has lost service during business hours. 85/ These outages are devastating to business customers.

Ameritech's poor quality conversions have created substantial problems for MFS as it tries to establish a customer base in Michigan. At a minimum, a botched conversion forces MFS to incur additional costs to fix whatever went awry and save face with the customer. In addition, customers lose revenue from being out of service and MFS loses revenue for the time a customer should have been connected to MFS but was not. More important than the increased cost or lost revenue, however, is the fact

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84/ Schroeder Affidavit at 4-5.

85/ Id. at 6.

that MFS's credibility and reputation are damaged through no fault of its own, not only with the customer whose conversion was improperly handled, but also with other potential customers that hear of these stories. Until these continuing problems are resolved, the Commission cannot conclude that Ameritech is offering unbundled loops in accordance with the requirements of Section 251(c)(3).

In one of the many examples of these problems, Ameritech operator and customer service personnel have been telling customers that local calls to or from MFS NXX codes will be rated as toll calls, notwithstanding the fact that MFS adopted local calling areas identical to Ameritech's. 86/ In response to questions from one potential customer, an Ameritech Account Manager wrote a letter stating:

> My conclusion is that MFS's local calling area does not equal Ameritech's local calling area for your location, and that their service could cost you three times as much (based on an average call) for the same service provided by Ameritech. Therefore, any savings that they may have shown you regarding local calls would need to be adjusted since their local calling area is minute compared to Ameritech's. 87/

As if providing this inaccurate information were not bad enough, the letter goes further in attempting to disparage MFS's service capabilities:

> Companies such as MFS are only interested in niche markets/locations and "cream skimming," and not in total service. Because of this, many of their offerings depend on our network, and you can end up with multiple vendors to deliver a service that Ameritech could have provided alone. 88/

86/ Id. at 16-18.

87/ Letter from Sandra L. Barbosa, Account Manager, Ameritech, to Jim House, O/E Systems, Inc. (January 6, 1997) (attached as Exhibit 2 to these comments).

88/ Id.

MFS has also experienced difficulties with reselling Ameritech's services, particularly Centrex service. While MFS has been reselling Centrex for some time, it is currently unable to do so under the avoided-cost rate structure mandated by the 1996 Act, because Ameritech bills its resale customers pursuant to the 1996 Act and its Centrex resale customers out of separate databases, and the conversion from one database to another is a manual process that can take 90 days. Such delays in obtaining customer billing data are unacceptable and have made it impossible for MFS to use this offering in Michigan. 89/

Ameritech has also failed to provide MFS customers using resold Centrex service with nondiscriminatory access to 911 and E911 service, in violation of Section 271(c)(2)(B)(vii) as well as the OSS requirements. 90/ Ameritech has populated E911 operator screen incorrectly with MFS's billing address rather than the actual end user's address on many Centrex lines. This is, of course, not just a critical competitive issue, it also affects public safety. Attached to these comments is a letter from October, 1996, indicating the concerns of the City of Southfield, Michigan with the Ameritech 911 database. 91/ While Ameritech appears to be taking these concerns seriously, 92/ the

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89/ See Schroeder Affidavit at 8-9.

90/ Id. at 11-15; 47 U.S.C. § 271(c)(2)(B)(vii).

91/ Letter from Robert R. Block, City Administrator, City of Southfield, Michigan, to John Strand, Chairman, Michigan PSC, October 21, 1996 (attached hereto as Exhibit 3). Brooks Fiber's submission in Michigan Section 271 Proceeding also raised questions about Ameritech's ability to to provide nondiscriminatory access to 911 and E 911 services. Michigan Section 271 Proceeding, Brooks Fiber Communications' Submission of Additional Information Regarding 911 Services and point is that 911 and other operational issues must be fully resolved before Ameritech can be deemed to have complied with the operational requirements of the Act.

Other carriers have had similar difficulties with Ameritech's OSS. Numerous flaws in Ameritech's OSS recently have been revealed in other Ameritech states, including Illinois, where extensive evidentiary hearings were recently completed in the Illinois Section 271 proceeding. 93/ Evidence compiled in Illinois demonstrates that Ameritech's OSS continues to be plagued with inadequacies and problems with respect to various OSS functions and interfaces. These problems include inadequate testing, failure to provide key OSS functions or subfunctions for unbundled elements,

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Service Order Performance By Ameritech Michigan (filed May 14, 1997). Brooks alleged that Ameritech had deactivated all 911 trunks serving Brooks Fiber's switch without notifying Brooks Fiber of the deactivation.

92/ See Ameritech Michigan's Submission of Additional Information in Response to Brooks Fiber Concerning 911 Services and Service Order Performance, June 2, 1997.

93/ In the Matter of Illinois Commerce Commission Investigation Concerning Illinois Bell Telephone Company Compliance With Section 271(c) of the Telecommunications Act (Phase II), Docket No. 96-0404 (Ill. Commerce Comm'n, opened March 21, 1997) ("Illinois Section 271 Proceeding"). In response to an inquiry from the Michigan PSC, Ameritech states that "[e]xperience in other Ameritech states is relevant to demonstrate the operational readiness of Ameritech's OSS functions, because Ameritech uses the same OSS interfaces, documentation, electronic functions, and manual procedures region-wide." In the Matter, On The Commission's Own Motion, To Consider Ameritech Michigan's Compliance With The Competitive Checklist In Section 271 Of The Telecommunications Act of 1996, Case No. 11104 ("Michigan Section 271 Proceeding"), Ameritech Michigan's Response to the Commission's Questions Regarding Operational Support Systems (filed May 28, 1997) at 5.

fragmented and inefficient ordering systems, excessive manual processing and lack of wholesale/retail parity. 94/

Ameritech is clearly not providing nondiscriminatory access to its OSS if it provisions network resources "electronically" while offering competing providers access that involves "human intervention." The record on Ameritech's OSS in the Michigan Section 271 Proceeding as well as the Illinois Section 271 Proceeding shows that a large percentage of Ameritech's OSS still relies on manual intervention. For example, as late as March 1997, approximately 27% of resale orders and 100% of unbundled loop orders in Illinois were processed manually by Ameritech. 95/ Moreover, Ameritech concedes that unbundled loop orders will continue to be processed manually, because Ameritech's EDI interface, which provides automated pre-ordering functionality, is not yet available for unbundled network elements. 96/ To pre-order unbundled elements, CLECs must obtain telephone number reservation and due date verification via fax or other manual processes. 97/

So long as Ameritech's OSS systems involve substantial manual processing of CLEC's orders and request, CLECs will be at a significant disadvantage

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94/ See evidence cited in Phase II Opening Brief of MCI Telecommunications Corporation at 3-25 in Illinois Section 271 Proceeding ("MCI Illinois Phase II Brief"); Supplemental Post-Hearing Brief of AT&T Communications of Illinois, Inc. at 5-26 ("AT&T Illinois Phase II Brief").

95/ AT&T Exh. 4-2 (Connolly) at 23-24 (cited in MCI Phase II Brief at 8).

96/ Rogers Affidavit, Volume 2.13, at 7-8.

97/ See MCI Illinois Phase II Brief at 11.

in competing against Ameritech since Ameritech will control the timeliness and accuracy of provisioning. The high degree of manual processing common to Ameritech's OSS clearly does not provide CLECs with access to OSS functions comparable to what Ameritech provides to itself.

Even more disturbing, Ameritech's own submission indicates that Ameritech's provisioning quality for wholesale customers in Michigan is inferior, across a wide range of measures to the quality of service Ameritech offers to its own retail customers in the state. 98/ Mr. Mickens's affidavit indicates that one reason a CLEC might not receive the due date it request, even when the order is submitted with a validly requested due date, is that the complexity of the order or other attributes of the order may cause a delay in processing, such as requiring manual review to prepare for downstream processing, which may then result in the due date request being no longer available. 99/ This example, cited by Ameritech's own witness, demonstrates the inherent inequalities and flaws in the routine reliance of Ameritech's OSS on manual intervention. This example also comports with the Wisconsin PSC finding that there is a significant correlation between manual processing at Ameritech's end and missed installation due dates. 100/

98/ See Mickens Affidavit, Volume 2.10, at 27 (conceding differences in missed due dates for unbundled loops and for Ameritech retail loops). See also Mickens Affidavit, Volume 2.10, at Attachment 22 (Ameritech Wholesale Quality Analysis Report - POTS - For April 1997) (proprietary information).

99/ Id. at 43.

100/ Matters Relating to Satisfaction of Conditions for Offering InterLATA Service (Wisconsin Bell d/b/a Ameritech Wisconsin), Wisconsin PSC Docket No.

The significance of these flaws is magnified when compared with the ease with which Ameritech will be able to switch customers to its interLATA service. Because potential competitors like WorldCom will be competing with Ameritech in the full service market, the deficiencies in Ameritech's OSS -- when compared to the simplicity and speed of the PIC change process, which has been tested extensively over the last decade and a half -- would give Ameritech a substantial competitive advantage if it were allowed to provide interLATA services at the present time. The Commission has explicitly recognized this problem. 101/

D. No Permanent Prices Have Yet Been Established That Would Satisfy The Checklist or Section 252.

The FCC does not need to reach any of the pricing issues raised in this application, because the application is patently defective in many other respects. Moreover, if the Commission does engage in a consideration of the pricing issues, it will find that Ameritech has failed to prove that its rates for interconnection, unbundled elements, and resale comply with the standards in the Act.

1. There Are No Permanent Rates That Could Be Held To Satisfy Section 252(d).

An applicant for interLATA entry has the burden of demonstrating to the Commission that the rates in its interconnection agreements relies fully satisfy the substantive requirements of Sections 251 (just, reasonable, and nondiscriminatory

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6720-TI-120, Findings of Fact, Conclusions of Law, and Second Order, May 29, 1997, at 18.

101/ Local Competition Order, 11 FCC Rcd at 15711, ¶ 421.

rates) and 252 (cost-based or avoided-cost pricing) of the Act. While the Commission must consult with the states on checklist compliance, it is this Commission, not the state commissions, that must verify that compliance. 102/

Ameritech has not met its burden of showing that those standards have been met. Most significantly, the rates in the Ameritech agreements with AT&T, MCI, Sprint, and TCG that were arbitrated by the Michigan PSC were expressly labeled by the PSC as interim. The PSC's pricing docket for setting those rates -- Case No. U-11280 -- is only now getting underway. The rates that come out of that docket, not the rates in the agreements, are the ones the FCC must judge under the pricing standard of the Act. The interim rates that will be in place for the next few months are not the rates that requesting carriers will face in the long run, and are not the rates that will determine whether those carriers have a realistic opportunity to enter local markets in Michigan. Moreover, contrary to the statement in Ameritech's brief, 103/ the Michigan PSC has made no finding that these rates comply with the Act.

102/ "Before making any determination under this subsection, the Commission shall *consult* with the State commission of any State that is the subject of the application *in order to verify* the compliance of the Bell operating company with the requirements of subsection (c)." 47 U.S.C. § 271(d)(2)(B) (emphasis added). Section 271(d)3) provides that the FCC "shall not approve the . . . application unless it finds that (A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and -- (i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has *fully implemented* the competitive checklist in subsection (c)(2)(B), (emphasis added).

103/ Ameritech Brief in Support of Application, May 21, 1997 ("Ameritech Brief") at 34-35 ("All of the AT&T [agreement] rates and discounts, and most of the Sprint [agreement] rates and discounts, are the product of arbitration. *The MPSC has*

2. Ameritech's Application Must Not Be Granted Until Judicial Review of the FCC's Pricing Standards Is Resolved.

Another, independent reason why Ameritech cannot establish that the checklist rates comply with the Act's substantive pricing requirements is that the FCC's rules establishing those standards -- and its jurisdiction to establish them --have been challenged by the incumbent LECs. 104/ Until there is a final determination as to the substantive pricing requirements of Section 251 and 252, it is not clear what those rates and standards should be. As a consequence, prospective entrants have no assurance that the rates (as well as terms and conditions) currently in negotiated or arbitrated agreements with Ameritech will continue to be available in the future. The pending judicial review of the Local Competition Order makes it impossible for the Commission to conclude that all the necessary prerequisites to enable local competition to develop in Michigan have been met.

In the meantime, however, if the Commission chooses to engage in a substantive review of the rates in Ameritech's agreements, it must apply the pricing and other standards it adopted in its Local Competition Order notwithstanding the stay and the pendency of judicial review. Those pricing standards reflect the Commission's best judgment as to what Sections 251 and 252 require. If the FCC decides to evaluate

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found that these arbitrated rates and discounts comply with Section 252(d)'s pricing standards.") (emphasis added).

104/ Iowa Utilities Board v. FCC, No. 96-3321 et. al. (8th Cir. , petition filed September 6, 1996). Several state commissions challenged the FCC's jurisdiction to adopt pricing rules, though not the pricing rules themselves.